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FEB - 6 2007

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

In re	)	Case No. 06-22225-D-7
BETSEY WARREN LEBBOS,	)	
	)	
Debtor.	)	
<hr/>		
GEORGE ALONSO,	)	Adv. Proc. No. 06-2314
Plaintiff,	)	Docket Control No. BWL-3
v.	)	
BETSEY WARREN LEBBOS,	)	
	)	
Defendant.	)	

**MEMORANDUM DECISION DENYING EX PARTE APPLICATION  
FOR ORDER STAYING ADVERSARY PROCEEDING PENDING APPEAL,  
PRESENTATION OF DISQUALIFICATION ISSUES, AND CHANGE OF VENUE**

On January 29, 2007 Betsey Warren Lebbos (the "Debtor") filed an Ex Parte Application for Stay of Adversary Proceeding Pending Appeal, Presentation of Disqualification Issues, and Change of Venue (the "Stay Application"). Although it is not crystal clear in the Stay Application what the Debtor is seeking to stay, the caption of the Stay Application contains an adversary proceeding number and the court concludes that the Debtor is seeking to have the court stay further prosecution of the Complaint to Determine Dischargeability of Debt for Willful and Malicious Injury Pursuant to 11 U.S.C. § 523(c)(6)) bearing

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1 Adversary Proceeding No. 06-2314-D-7 (the Dischargeability  
2 Complaint").

3 In part the Stay Application asserts a stay of the  
4 Dischargeability Complaint is warranted because the Debtor  
5 represents herself in pro se. The Dischargeability Complaint was  
6 filed back on September 15, 2006 and the Debtor filed an answer  
7 in pro se on November 21, 2006. The Debtor is an attorney, and  
8 as such has a legal education and in the past was a practicing  
9 attorney. The Debtor has always represented herself in the  
10 Dischargeability Complaint and has had close to four months to  
11 retain counsel if she wished to do so.

12 In determining whether to stay an order or proceeding, the  
13 courts in the Ninth Circuit apply the standard employed when  
14 considering a motion for preliminary injunction. See, Tribal  
15 Village of Akutan v. Hodel, 859 F.2d 662, 663 (9<sup>th</sup> Cir. 1988).  
16 This standard requires that the movant demonstrate either, (1) a  
17 combination of probable success on the merits, and the  
18 possibility of irreparable harm, or (2) the existence of serious  
19 questions going to the merits and a balance of hardship tipping  
20 sharply in favor of the movant. Cadance Design Sys., Inc. v.  
21 Avant! Corp., 125 F.3d 824, 826 (9<sup>th</sup> Cir. 1997).

22 The Stay Application does not discuss the merits of the  
23 Dischargeability Complaint, let alone demonstrate that the Debtor  
24 will probably be successful in defending the action, and although  
25 the Debtor asserts irreparable harm, the Debtor fails to state  
26 the specific harm that will result if prosecution of the  
27 Dischargeability Complaint is not stayed. The Debtor also fails  
28 to discuss the existence of serious questions going to the merits

1 of the Dischargeability Complaint, and that in balancing the  
2 hardships they tip sharply in favor of the Debtor. As such, the  
3 Stay Application fails to establish the elements necessary for a  
4 stay under the Federal Rules of Bankruptcy Procedure, Rule 8005.

5 Accordingly, the court denies the Stay Application and the  
6 court will issue an order consistent with this Memorandum.

7 Dated: FEB - 6 2007

Robert S. Bardwil  
Robert S. Bardwil, Judge  
United States Bankruptcy Court

Certificate of Service

I, Andrea Lovgren, in the performance of my duties as Deputy Clerk to the Honorable Robert S. Bardwil, mailed by ordinary mail a true copy of the attached document to each of the parties listed below:

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DATED: February 6, 2007

FOR THE COURT  
RICHARD G. HELTZEL  
CLERK, U.S. BANKRUPTCY COURT

By: Andrea Lovgren  
Deputy Clerk